

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA

Shane Phillip Peterka,

Petitioner,

-vs-

Chad Pringle, Warden,

Respondent.

Case No. 3:15-cv-79

**ORDER ADOPTING REPORT AND
RECOMMENDATION**

Pursuant to 28 U.S.C. § 636, the court has received a Report and Recommendation from the Honorable Alice R. Senechal, United States Magistrate Judge.¹ The Report and Recommendation recommends that Respondent Chad Pringle's motion to dismiss be granted and Petitioner Shane Peterka's habeas petition dismissed with prejudice. No objections have been filed within the prescribed time period.

After reviewing the record and the magistrate judge's Report and Recommendation, the court finds the magistrate judge's analysis of the motion and recommendation for disposition is appropriate. Accordingly, the court hereby adopts the Report and Recommendation in its entirety. Because Peterka has not demonstrated he is entitled to relief on any of his claims, the respondent's motion to dismiss² is **GRANTED**. Peterka's habeas petition is **DISMISSED with prejudice**.

Because dismissal of the petition is not debatable, reasonably subject to a different outcome on appeal, or otherwise deserving of further proceedings, this court will not issue a certificate of appealability. Further, any appeal taken would be frivolous and not in good

¹ Doc. #14.

² Doc. #7.

faith and thus may not be taken *in forma pauperis*.

IT IS SO ORDERED.

Dated this 22nd day of February, 2016.

/s/ Ralph R. Erickson
Ralph R. Erickson, Chief Judge
United States District Court